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HOUSE BILL 874

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Richard D. Vigil

AN ACT

RELATING TO INSURANCE; PROVIDING FOR INTERCEPTION OF CERTAIN
INSURANCE PAYMENTS TO PAY DELINQUENT CHILD SUPPORT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the New Mexico Insurance Code
is enacted to read:

"[NEW MATERIAL] NOTIFICATION BY INSURER. --

A. Prior to making payment to a person who resides
in New Mexico to settle any obligation, claim or award or to
pay an annuity, an insurer providing life, property, marine and
transportation, wet marine, casualty, vehicle or surety
insurance, as defined in Chapter 59A, Article 7 NMSA 1978,
shall first notify the child support enforcement division of
the human services department. Notification shall include
sufficient information to positively identify the intended

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1 recipient, the amount to be paid and the purpose of such
2 payment.

3 B. An insurer required to provide notification
4 under Subsection A of this section shall not issue payment
5 without first receiving approval from the human services
6 department. "

7 Section 2. A new section of the New Mexico Insurance Code
8 is enacted to read:

9 "[NEW MATERIAL] INSURERS-- COURT ORDER-- PAYMENT. -- An
10 insurer receiving a court order obtained pursuant to Section
11 40-4A-5.1 NMSA 1978 shall pay to the human services department
12 an amount equal to the delinquency of the obligor named in the
13 court order if the amount due the person is equal to or greater
14 than the delinquency. If the intended payment by the insurer
15 is less than the amount of the delinquency, the insurer shall
16 pay the entire amount to the human services department. "

17 Section 3. Section 40-4A-1 NMSA 1978 (being Laws 1985,
18 Chapter 105, Section 1) is amended to read:

19 "40-4A-1. SHORT TITLE. -- [~~This act~~] Chapter 40, Article 4A
20 NMSA 1978 may be cited as the "Support Enforcement Act". "

21 Section 4. A new section of the Support Enforcement Act,
22 Section 40-4A-5.1 NMSA 1978, is enacted to read:

23 "40-4A-5.1. [NEW MATERIAL] NOTICE TO DIVERT PAYMENT. --

24 A. When an obligor has been served notice of
25 delinquency, as provided in Section 40-4A-4 NMSA 1978, and the

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1 department receives notice of an intended payment to the
2 obligor by an insurer, the department shall:

3 (1) immediately provide notice to the insurer
4 of an interest in the intended payment;

5 (2) file with the clerk of the district court
6 an application for an order to divert the intended insurance
7 payment to the department and serve notice upon the insurer by
8 certified mail with proof of service filed with the clerk of
9 the district court;

10 (3) provide notice to the obligor of the court
11 order; and

12 (4) if the intended payment is more than the
13 amount of an obligor's delinquency, authorize the insurer to
14 make payment to the obligor of the balance remaining after
15 payment to the department as required by Section 2 of this act.

16 B. If the person identified by the insurer in its
17 notification to the department is not an obligor, or if the
18 person is an obligor but is not found to be delinquent, the
19 department shall notify the insurer to proceed with its payment
20 of the claim, award or annuity. The department shall provide
21 this notice and that required in Paragraph (1) of Subsection A
22 of this section within three business days from the time of
23 receipt of the insurer's notification. "

24 Section 5. Section 40-4A-7 NMSA 1978 (being Laws 1985,
25 Chapter 105, Section 7, as amended) is amended to read:

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